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| APPLICATION NO.        | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|------------------------|-------------|----------------------|---------------------|------------------|
| 10/578,083             | 05/02/2007  | Stewart A. Burton    | BEYPRO/101/PC/US    | 8388             |
| 2543                   | 7590        | 06/10/2009           | EXAMINER            |                  |
| ALIX YALE & RISTAS LLP |             |                      | PICO, ERIC E        |                  |
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| SUITE 1400             |             |                      | ART UNIT            | PAPER NUMBER     |
| HARTFORD, CT 06103     |             |                      | 3654                |                  |
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|                        |             |                      | 06/10/2009          | PAPER            |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                      |  |
|------------------------------|--------------------------------------|--------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/578,083 | <b>Applicant(s)</b><br>BURTON ET AL. |  |
|                              | <b>Examiner</b><br>ERIC PICO         | <b>Art Unit</b><br>3654              |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 22-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/11/2009 has been entered.

### ***Claim Objections***

2. **Claim 45** is objected to because of the following informalities: the phrase “gear that that extends” is improper. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claim(s) 22, 28, 29, and 43** is/are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson U.S. Patent No. 1228162.

5. **Regarding claim 22**, Anderson discloses a lifting device comprising:

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6. a central column comprised of uprights 13, 14 generally vertical when the lifting device is in an operating position, said column 13, 14 including two rear channels and two forwardly open channels extending the length of said column 13, 14, each of said rear channels having a passageway open to the front of said column 13, 14;

7. a carriage 18 positioned to the front of said column 13, 14 and normally generally horizontal when the lifting device is in an operating position,

8. a pair of spaced forks 25 at one end of said carriage 18, each having an one end connected to said carriage 18 and the other end operatively connected to said column 13, 14;

9. at least one rear bearing 35 adjacent the other end of each of said forks 25, said rear bearing 35 of one of said forks 25 riding in one of said rear channels with its associated fork 25 extending through the associated passageway, shown between upright 13 and screw shaft 37, and the said rear bearing 35 of the other of said forks 25 riding in the other of said rear channels with its associated fork 25 extending through the associated passageway, shown between upright 14 and screw shaft 37; and

10. a fork bearing 27 on each fork 25 positioned downwardly and forwardly from the rear bearing 35, said fork 25 bearing of one of said forks 25 riding in one of said forwardly open channels and the fork bearing 27 of the other of said forks 25 riding in the other of said forwardly open channels whereby said carriage 18 is moveable along said column 13, 14.

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11. **Regarding claim 28**, Anderson discloses wherein a chassis 10 attached to a lower end of said column 13, 14 underlies said carriage 18 and rests on a surface upon which said device is disposed.
12. **Regarding claim 29**, Anderson discloses wherein said device has first wheels 11 disposed at a lower end of said column 13, 14 and second wheels 11 disposed at a distal end of said chassis 10.
13. **Regarding claim 43**, Anderson discloses wherein said carriage 18 is configured to hold thereon a toolbox, a chest of drawers, a seat of a vehicle, a circular container, or an object in a vise disposed at an edge of said carriage 18.

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. **Claim(s) 23, 26, 38, and 45** is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson U.S. Patent No. 1228162 in view of Kim U.S. Publication No. 2001/0038786.
16. **Regarding claim 23**, Anderson discloses a slide 24 having two ears, shown as the ends of cross piece 24, and a lead screw 37 in engagement with said slide 24 to move said slide 24 along said column 13, 14 upon rotation of said lead screw 37, said

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slide 24 being operatively connected to said forks 25 to move said forks 25 along said column 13, 14 as said lead screw 37 is rotated.

17. Anderson is silent concerning said column having two flanges, said ears engaging said flanges to support said slide for movement along said column.

18. Kim teaches a slide 20 having two ears, shown as the ends of lifting platform 20, said column having two flanges, said ears engaging said flanges to support said slide 20 for movement along a column 10, and a lead screw 31 in engagement with said slide 20 to move said slide 20 along said column 10.

19. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the column disclosed by Anderson with flanges as taught by Kim and engage the ears disclosed by Anderson to the flanges as taught by Kim to facilitate the movement of the carriage.

20. **Regarding claim 26**, Anderson discloses wherein said lead screw 37 is disposed within said column 13, 14.

21. **Regarding claim 38**, Anderson is silent concerning wherein at least one of said first wheels is driven by a motor.

22. Kim teaches wherein at least one of said first wheels is driven by a motor.

23. It would have been obvious to one of ordinary skill in the art at the time of the invention to drive wheels disclosed by Anderson by a motor as taught by Kim to facilitate the movement of the device.

24. **Regarding claim 45**, Anderson discloses wherein said lead screw 37 is disposed in a forwardly open lead screw channel, shown between uprights 13, 14, in

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said column positioned between said channels in which said rear bearings 35 are positioned, and said slide 24 has a rearwardly facing gear 38 that extends into said lead screw channel into operative engagement with said lead screw 37.

25. Anderson is silent concerning said flanges extend sideways from either side of said lead screw channel.

26. Kim teaches said flanges extend sideways from either side of said lead screw channel.

27. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the column disclosed by Anderson with flanges as taught by Kim and engage the ears disclosed by Anderson to the flanges as taught by Kim to facilitate the movement of the carriage.

28. **Claim(s) 24, 25, and 30** is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson U.S. Patent No. 1228162 in view of Kim U.S. Publication No. 2001/0038786 as applied to claim 22 above, and further in view of Tsai U.S. Patent No. 6425599.

29. **Regarding claim 24**, Anderson is silent concerning wherein said device can be folded with said column and said carriage generally parallel, so that said device can be transported or stored.

30. Tsai teaches a device can be folded with a column 21 and a carriage 50 generally parallel, so that said device can be transported or stored.

31. It would have been obvious to one of ordinary skill in the art at the time of the invention to allow the device disclosed by Anderson to be folded with said column and

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said platform generally parallel as taught by Tsai to facilitate the transportation and storage of the device.

32. **Regarding claim 25**, Anderson is silent concerning wherein said device includes a brake mechanism that can be activated when the device is folded

33. Kim teaches wherein: said device includes a brake mechanism that can be activated, Paragraph [0034].

34. Tsai teaches a device can be folded.

35. It would have been obvious to one of ordinary skill in the art at the time of the invention to allow the device disclosed by Anderson to be folded with said column and said platform generally parallel as taught by Tsai to facilitate the transportation and storage of the device.

36. **Regarding claim 30**, Anderson discloses a handle 15 attached to said column 13, 14 to aid in carrying said device.

37. Anderson is silent concerning said device is in its folded position.

38. Tsai teaches a handle 23 attached to said column 21 to aid in carrying said device when said device is in its folded position.

39. It would have been obvious to one of ordinary skill in the art at the time of the invention to allow the device disclosed by Anderson to be folded with said column and said platform generally parallel as taught by Tsai to facilitate the transportation and storage of the device.

40. **Claim(s) 27, 35, and 36** is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson U.S. Patent No. 1228162 in view of Kim U.S. Publication



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No. 2001/0038786 as applied to claim 22 and 26 above, and further in view of Rhodes U.S. Patent No. 3907138.

41. **Regarding claim 27**, Anderson discloses wherein said lead screw 37 is rotated.

42. Anderson is silent concerning wherein said lead screw is rotated by an electric motor, said electric motor receiving power from a source internal to said device.

43. Rhodes teaches wherein a lead screw 60 is rotated by an electric motor 66, said electric motor 66 receiving power from a source 74 internal to said device.

44. It would have been obvious to one of ordinary skill in the art at the time of the invention to rotate the lead screw disclosed by Anderson by an electric motor, said electric motor receiving power from a source internal to said device as taught by Rhodes to facilitate the movement of the carriage.

45. **Regarding claim 35**, Anderson is silent concerning arms extending generally horizontally from said column to stabilize said load.

46. Rhodes teaches arms, referred to as strap bar 92, extending generally horizontally from said column 10 to stabilize said load.

47. It would have been obvious to one of ordinary skill in the art at the time of the invention to extend arms generally horizontally as taught by Rhodes from the column disclosed by Anderson to stabilize said load

48. **Regarding claim 36**, Anderson is silent concerning at least one strap extending from at least one of said arms to stabilize said load.

49. Rhodes teaches at least one strap 96 extending from at least one of said arms 92 to stabilize said load.

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50. It would have been obvious to one of ordinary skill in the art at the time of the invention to extend at least one strap from at least one of said arms as taught by Rhodes from the column disclosed by Anderson to stabilize said load.

51. **Claim(s) 31 and 32** is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson U.S. Patent No. 1228162 in view of Kim U.S. Publication No. 2001/0038786 as applied to claim 22 above, and further in view of Rountree U.S. Patent No. 6561745.

52. **Regarding claim 31**, Anderson is silent concerning tie down straps connected to sides of said carriage to secure said load.

53. Rountree teaches tie down straps 31, 32 connected to sides of a carriage to secure a load.

54. It would have been obvious to one of ordinary skill in the art at the time of the invention to connect tie down straps as taught by Rountree to the carriage disclosed by Anderson to fasten the load onto the platform.

55. **Regarding claim 32**, Anderson is silent concerning wherein said tie down straps can be selectively positioned along said side of said carriage.

56. Rountree teaches wherein said tie down straps 31, 32 can be selectively positioned along a side of said carriage.

57. It would have been obvious to one of ordinary skill in the art at the time of the invention to connect tie down straps as taught by Rountree to the carriage disclosed by Anderson to fasten the load onto the platform.

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58. **Claim(s) 33** is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson U.S. Patent No. 1228162 in view of Kim U.S. Publication No. 2001/0038786 as applied to claim 22 above, and further in view of Hsieh et al. U.S. Patent No. 5951037.

59. **Regarding claim 33**, Anderson is silent concerning wherein said carriage can be selectively manually lengthened or shortened.

60. Hsieh et al. teaches wherein a carriage 50 can be selectively manually lengthened or shortened.

61. It would have been obvious to one of ordinary skill in the art at the time of the invention to allow the carriage disclosed by Anderson to be selectively manually lengthened or shortened as taught by Hsieh et al. to adjust the carriage for various loads.

62. **Claim(s) 34** is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson U.S. Patent No. 1228162 in view of Kim U.S. Publication No. 2001/0038786 as applied to claim 22 above, and further in view of Hanson U.S. Patent No. 2778515.

63. **Regarding claim 34**, Anderson is silent concerning an upper ball foot disposed at an upper end of said column that engages a surface on which said device is placed when said column is horizontal.

64. Hanson teaches an upper ball foot disposed at an upper end of said column that engages a surface on which said device is placed when said column is horizontal, shown in Figure 5.

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65. It would have been obvious to one of ordinary skill in the art at the time of the invention to dispose an upper ball foot as taught by Hanson at an upper end of said column disclosed by Anderson to support the device when placed horizontal.

66. **Claim(s) 37** is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson U.S. Patent No. 1228162 in view of Kim U.S. Publication No. 2001/0038786 as applied to claim 22 above, and further in view of Lemme et al. U.S. Patent No. 4579504.

67. **Regarding claim 37**, Anderson is silent concerning a crane structure extending from said column.

68. Lemme et al. teaches a crane structure 20 extending from a column 14.

69. It would have been obvious to one of ordinary skill in the art at the time of the invention to extend a crane structure as taught by Lemme et al. from the column disclosed by Anderson to facilitate the lifting of the load onto the platform.

70. **Claim(s) 39 and 40** is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson U.S. Patent No. 1228162 in view of Kim U.S. Publication No. 2001/0038786 as applied to claim 29 above, and further in view of Johansson U.S. Patent No. 5951234.

71. **Regarding claim 39 and 40**, Anderson is silent concerning wherein each of said second wheels comprises: a vertical circular wheel disposed on a horizontal shaft; said horizontal shaft disposed operatively connected to a horizontal plate disposed above said horizontal shaft; said horizontal plate engaging generally horizontal ball bearings disposed between a plate fixedly connected to said carriage and said horizontal plate,

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said plate being beneath said horizontal plate; and wherein each of said second wheels comprises at least two configurations manually selectable by rotation of said second wheels.

72. Johansson teaches wherein each of second wheels comprises:

73. a vertical circular wheel 4 disposed on a horizontal shaft;

74. said horizontal shaft disposed operatively connected to a horizontal plate 14 disposed above said horizontal shaft;

75. said horizontal plate 14 engaging generally horizontal ball bearings disposed between a plate fixedly connected to said carriage and said horizontal plate, said plate being beneath said horizontal plate 14; and

76. wherein each of said second wheels comprises at least two configurations manually selectable by rotation of said second wheels.

77. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the second wheels disclosed by Anderson with two configurations as taught by Johansson to raise the carriage.

78. **Claim(s) 41 and 42** is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson U.S. Patent No. 1228162 in view of Kim U.S. Publication No. 2001/0038786 as applied to claim 29 above, and further in view of Johnson et al. U.S. Patent No. 3445958.

79. **Regarding claim 41**, Anderson is silent concerning wherein each of said first wheels has as relatively soft circular removable covering placed thereabout to assist said first wheels in maneuvering across soft terrain.

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80. Johnson et al. teaches wheels has as relatively soft circular removable covering 10 placed thereabout to assist said wheels in maneuvering across soft terrain.

81. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the wheels disclosed by Anderson with a relatively soft circular removable covering as taught by Johnson et al. to facilitate the movement of the vehicle over certain terrain.

82. **Regarding claim 42**, Anderson is silent concerning wherein said relatively soft circular removable covering is filled with a foam material.

83. Johnson et al. teaches wherein: said relatively soft circular removable covering is filled with a foam material.

84. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the wheels disclosed by Anderson with a relatively soft circular removable covering as taught by Johnson et al. to facilitate the movement of the vehicle over certain terrain.

85. **Claim(s) 44** is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson U.S. Patent No. 1228162 in view of Kim U.S. Publication No. 2001/0038786 as applied to claim 23 above, and further in view of Chelin U.S. Patent No. 4056170.

86. **Regarding claim 44**, Anderson discloses a rod 24 extending between the spaced forks 25.

87. Anderson is silent concerning a slide having a forwardly opening channel therein, and said rod being received in said channel.

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88. Chelin teaches a slide having a forwardly opening channel, shown between upper cross brace 24 and upper crowding blocks 37, therein, and lift forks 26 being received in said channel.

89. It would have been obvious to one of ordinary skill in the art at the time of the invention to receive the rod disclosed by Anderson into a slide having a forwardly opening channel therein as taught by Chelin to allow for removal forks.

### ***Response to Arguments***

90. Applicant's arguments filed 3/11/2009 have been fully considered but they are not persuasive.

91. In response to applicant's argument, "There is no central column" in its broadest reasonable interpretation Anderson discloses a central column comprised of left and right uprights 13, 14.

92. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., slide member "which rides along a column and which is connected the platform or carriage") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

93. In response to applicant's argument, "Tsai presents no teaching for making a carriage that is moveable along a column collapsible" the teachings of Tsai are merely relied upon for the teachings of a device that can be folded with a column and carriage

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generally parallel, so that the device can be transported or stored as claimed in claim 24.

94. In response to applicant's argument, "There is no teaching or suggestion in any of the references, Anderson, Kim or Tsai of providing a brake mechanism that can be activated when the device is folded" firstly it should be noted that the phrase "can be" does not necessarily mean must be activated but instead be capable of being activated, nothing hinders or prevents the brake mechanism from being activated. Therefore, the brake mechanism theoretically "can be" activated at any time as long as nothing hinders the downward motion.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC PICO whose telephone number is (571)272-5589. The examiner can normally be reached on 6:30AM - 3:00PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Nguyen can be reached on 571-272-6952. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/John Q. Nguyen/  
Supervisory Patent Examiner, Art Unit 3654

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